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AN ATTITUDINAL STUDY OF SCHOOL
ADMINISTRATORS TOWARDS DUE PROCESS AND ITS
IMPLICATIONS IN AN URBAN MASSACHUSETTS SCHOOL DISTRICT

A Dissertation Presented

by

FRANCIE VELAZQUEZ

Submitted to the Graduate School of the
University of Massachusetts in partial fulfillment
of the requirements for the degree of

DOCTOR OF EDUCATION

May 1990

School of Education

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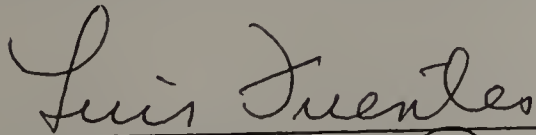
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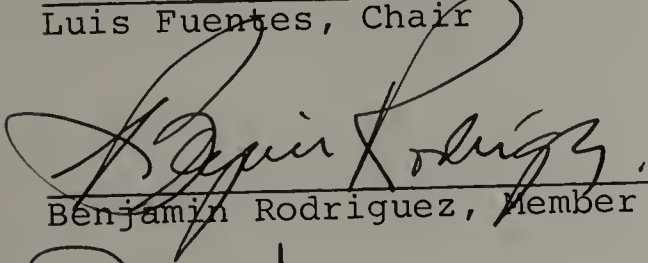
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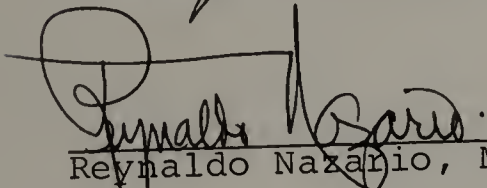
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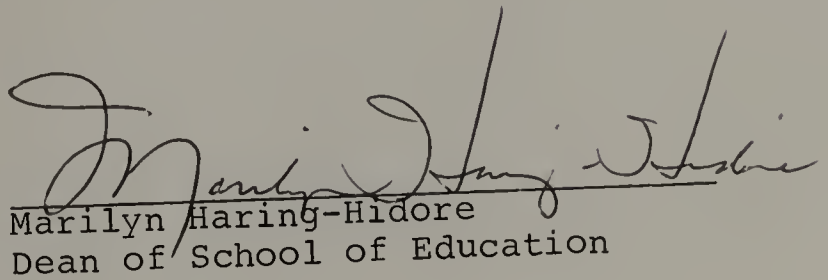
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ABSTRACT

AN ATTITUDINAL STUDY OF SCHOOL
ADMINISTRATORS TOWARDS DUE PROCESS AND ITS
IMPLICATIONS IN AN URBAN MASSACHUSETTS SCHOOL DISTRICT

MAY 1990

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In the last several years a high number of school litigations have been lost by school administrators. Especially those cases related to the "Due Process of Law" which has to be followed by school administrators when they pursue the dismissal of a teacher or the suspension of a student. The litigations have had a negative impact on school budgets and on the school work environment as well. Thus, this paper discusses why school administrators lose on due process related legal cases in courts and recommends remedies. A survey research method among local school district administrators is used, as a sample to measure school administrator's familiarity with due process, and the impact of that knowledge on the outcome of discipline cases.

The survey questionnaire has two parts. The first part presents several due process attitudinal multiple choice questions. These questions are related to U.S. courts due

process statements; statements with which some school administrators agree and others disagree.

The second part has several due process questions. The questions regard due process accepted standards that courts and legal authorities point to as common denominators in due process procedures.

A third part has two questions related to when principals last took a legal educational course or refresher workshop, and if they would consider a "due process" handbook helpful to them.

Each item, part, sub-parts totals of correct responses were computed and compared using percents, the mean and standard deviation.

The findings show a considerable absence of knowledge and a poor attitude toward due process of law; the attitude of the respondents toward due process for students was the most negative. In addition, it was found that the better the due process knowledge, the better the attitude toward due process; also, the more recently a principal has taken a legal course, the higher their correct responses.

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CHAPTER 1

INTRODUCTION

1.1 Background to the Problem

In recent years educational administrators in public schools have found that the procedures for the dismissal of teachers or students by cause¹ is not as simple as it was at the beginning of this century (Remley and MacReynolds, 1988). They have found standards and procedures existed as key guidelines in the past for a dismissal of a teacher or a suspension of student (sometimes arbitrary and ambiguous) have changed, due to different reasons as the literature suggests. Some of those reasons have been the increased involvement of teachers, unions and parents (Henderson, 1985), changes in community standards (Knezevich, 1984), and recent U.S. Courts' decisions. As happened for instance in the landmark case Goldberg v. Kelly (1970).²

As a consequence school authorities have been challenged to become up-to-date with the most recent court

¹For us, the term dismissal by cause denotes termination of employment status for reasons directly related to the fitness of a professional employee (Bender, 1988); and it is an action initiated by the school system (Castetter, 1986); is distinguished from other forms of dismissal or release such as reduction of force by economic reasons (Bender, 1988).

²In Goldberg v. Kelly (1970), the United States Supreme Court came up with the basic elements of "due process of law" that school administrators have to follow in the dismissal of teachers; this decision has brought a dramatic impact in teacher dismissal procedures (Castetter, 1986).

decisions regarding due process of law in the dismissal of teachers and student by cause;³ to following accepted practices step-by-step, to insure the rights of the person dismissed or suspended.⁴

Many school decisions are overturned by courts solely because school administrators do not follow constitutional standards of due process (Bender, 1988), as a consequence of paying minimal attention to documentation, and being unaware of due process procedures⁵ (Remley and MacReynolds, 1988). This has lead many school systems to incur an increase in their legal and other costs (e.g. legal fees, school departments' insurances, personnel work hours and rewarded damages) (Castetter, 1986; Deeds, 1988). See the following cases just for illustration in Vail v. Board of Education of Paris United States District No.95 (1983). The school board was remanded to pay \$19,850.99 in damages to an athletic-director (Henderson, 1985); in Stoneking v. Bradford Area School District (1987), the Bradford Area School District's insurance had to pay \$700,000 to the plaintiff (Zirkel, 1988).

³The causes depend on the state.

⁴They have to know "...the steps one should take before recommending the dismissal (...) and then following each step carefully" (Remley and MacReynolds, 1988, p. 41).

⁵As we see in: Kingsville Ind. School Dist. v. Cooper (1980).

In one of the most illustrative cases, Pred v. Board of Public Instruction (1969),⁶ the board did not reappoint Eleanor Pred and Stanley Eteresque, two untenured teachers⁷ (in retaliation for their active participation in the teachers' association). John R. Brown, Chief Judge of the circuit court upheld the untenured teachers'⁸ position, pointed out that competence cannot be defined in terms of teachers' constitutional rights. The case was sent back to the trial court for findings of fact and the balancing test of interest,⁹ that led to a lot of school personnel work hours.

1.2 Statement of the Problem

The above cases are not the only ones where school administrators have been challenged and defeated in U.S. courts for their apparent ignorance of the "due process of law". There are many others (Bender, 1988).

⁶Though this case was in Miami-Dade County, Junior College in Florida, it is illustrative of what happens in other public instruction levels.

⁷If reappointed, they would have acquired tenure according to Florida tenure law (Fischer and Schimmel, 1982).

⁸As Fischer and Schimmel (1982) point out "...even untenured teachers have due process rights, if the grounds for the [non] renewal relate to constitutionally protected activity, such as controversial expression, union activity, one's race or sex" (p. 324).

⁹To see if the exercise of the protected rights by the teachers did obstruct the state's educational function (Menacker, 1981).

This has serious implications for school boards and departments (Castetter, 1986). Implications that lead us to ask: Do school administrators know related educational laws?¹⁰ Do school administrators know that students also have the rights of "due process"? Especially if the student's alleged misbehavior is deemed serious enough to bring long periods of suspension or to damage his reputation.¹¹ Do administrators know that some school policy handbooks violate "substantive due process" of law?¹² Do schools' administrators know that the type of notice and hearing required by state laws varies with the type of administrative decision and with the employee status?¹³

¹⁰Here in Massachusetts it was a tendency to think that untenured teachers had no right to due process (Fischer and Schimmel, 1982).

¹¹In such cases the law demands that school officials follow fair procedures for the student. As the court said in Tibbs v. Board of Township of Franklin in New Jersey (1971), "...the decision for expulsion constitutes deprivation of a most drastic and potentially irreparable kind. In that setting compromise with punctilious procedural fairness becomes unacceptable" (Fischer and Schimmel, 1982, p. 313).

¹²As happened in Meyer v. Arcata Union High School District (1969), where a high school student challenged successfully, a portion of the school policy handbook that said, "Excessive tightness in clothes as well as extremes in shirt tails and similarly extremes in hair styles are not acceptable" (Fischer and Schimmel, 1982, p. 319). The court held for the student and established that the policy was "vague", and "standardless" and determined by "the subjective appraisal of the vice principal". It leaves the public uncertain of what is prohibited or not (Fischer and Schimmel, 1982).

¹³For instance, "...some decisions require no notice or hearings, others require formal notice and trial

1.3 Purpose of the Study

Thus, the specific purpose of this research paper is to answer the following questions: Are our public school administrators familiar with the basic elements of due process for dismissing a teacher or for the suspension of a student? If yes, to what degree are they familiar with it? What are the possible reasons administrators do not know?

1.4 Defining "Due Process" Basic Terms

Due process is not explicitly demanded by the Constitution, it is derived from the interpretation of the Fifth and Fourteenth Amendments, from the excerpts that say: "No person shall ... be deprived of liberty, or property without due process of law" (14th Amendment) and "No state shall deprive any person of life, of liberty, or property without due process of law" (5th Amendment). In addition, in 1923 the Supreme Court added scope to it, saying that the meaning of liberty denotes not merely freedom from "bodily restraints", but also "the right of the individual to engage in common occupations of life" (Fischer and Schimmel, 1982, p. 300).

hearings and still others involve informal notification or conferences" (Bender, 1988, p. 317); as happened in:

- a) Santa Clara Federation of Teachers v. Governing Board of Santa Clara Unified School District (1981).
- b) Speeces v. Unified School District, (1981).
- c) Maddox v. Clackamas County School District, (1982).

Due process of law has never been precisely defined (according to legal authorities) (Fischer and Schimmel, 1982). Its contents highly depend on the circumstances of the subject matter and the necessities of the situation (Valente, 1985). It is a function of many variables, including nature of the right affected, the degree of danger by the proscribed condition or activity and availability of prompt remedial measure¹⁴ (Valente, 1985).

No matter the procedures used for the purpose of the courts, states, and other arms of government they must provide fair procedures before depriving anyone of "life, liberty or property" and must not be arbitrary, unreasonable or discriminatory in their policies or practices (Deeds, 1988; Fischer and Schimmel, 1988; John, 1983).

Courts also make a difference between "procedural due process" and "substantive due process".

1.4.1 Procedural Due Process

Briefly, procedural due process requires that school administrators employ fair procedures in issues affecting the teacher or the student's liberty or property rights. The concept of fair procedures is related to the established court procedures that include fair and timely

¹⁴Thus, a school district may create different procedures that may satisfy due process of law (Fischer and Schimmel, 1982).

notice of the charges to the affected parties; a provision of impartial hearing on those charges; the opportunity to rebut charges, to confront and challenge adverse evidence, and cross examine accusers; a fair opportunity to be prepared for the hearing, to get a decision by impartial tribunals; the right to be represented by legal counsel.

1.4.2 Substantive Due Process

In short, rules or regulations that have no rational relationship to legitimate school goals violate substantive due process. Rules that penalize teachers or students while having no rational relation to the objectives or needs of the school, would fail the test of substantive due process (Menacker, 1981). As Fischer and Schimmel (1982) say:

...to test a law or a policy for arbitrariness, courts first ask whether there is a legitimate goal for which the law or the policy was created; second, whether there is a reasonable connection between the goal sought and the means chosen; and finally, whether there might not be other, less restrictive ways of achieving the same goals (p. 302).

1.5 Tenured and Untenured Teachers Due Process

The extent of due process required depends upon the liberty or property teachers interest have in their job. Therefore, we have to make a distinction between due process of law required for tenured and untenured teachers.

1.5.1 Tenured Teachers

Commonly the due process steps mentioned above are required by courts for dismissing tenured teachers for cause due to the degree of property right involved. In addition, the tenure laws¹⁵ and the teachers' contracts (e.g. bargaining agreements) also specify whereby a tenured teacher may be suspended, dismissed or otherwise disciplined (Fischer and Schimmel, 1982)..

Besides the above, we can be guided by the procedures mentioned before (in procedural due process). The elements or procedures established by the Supreme Court in the landmark case of Goldberg v. Kelly (1970).¹⁶

1.5.2 Untenured Teachers¹⁷

If the dismissal of the non tenured teacher happens during the year of contract, the nontenured teacher has the

¹⁵As Fischer and Schimmel (1982) point out: "The courts are strict in their insistence that procedural safeguards provided in the tenure law be meticulously observed" (p. 303). As happened in Kumph v. Wayne Community School District (1971) where a tenured teacher won his case because the school board did not follow the tenure law requirements.

¹⁶Castetter (1986) says that:

Due process, as viewed by the United States Supreme Court in the landmark case of Goldberg v. Kelly, includes the following elements: (1) timely and adequate notice detailing the reason for the proposed termination, (2) effective opportunity to defend oneself by confronting adverse witnesses, (3) opportunity to cross-examine witnesses, (4) adequate notice before the hearing, (5) opportunity to be heard; (6) assurance that the decision-makers' conclusions will be based only on evidence presented during the hearing and that they will be impartial (p. 418).

same rights as if he were a tenured teacher. Because the untenured teacher has a "property right" until his contract ends. If the dismissal is at the end of the year contract, the nontenured teacher has no due process rights;¹⁸ unless the teacher asserts to prove the nonrenewal of his contract is in retaliation for having exercised a constitutionally protected right rather than a matter of teaching incompetence. In such a case, a fair procedure must be available to determine the fact¹⁹ (Fischer and Schimmel, 1982).

A fair procedure must also be available if the dismissal reasons damage the teacher's reputation. Because the liberty right of the teacher to teach in other institutions could be restrained.

1.6 Students' Due Process

Due to the doctrine of "in loco parentis",²⁰ teachers and administrators had a broad criteria to discipline the students (Fischer and Schimmel, 1982). This doctrine was part of our society's beliefs for years.

¹⁷If does not exist "de facto tenured" (that will be explained in the second chapter).

¹⁸Though states tendency is to give some kind of due process right (Bender, 1988), the majority of the states rules, according to the landmark case Board of Regents of State Colleges v. Roth (1972).

¹⁹As happened in Lucia v. Duggan (1969).

²⁰"In place of the parent; acting as a parent with respect to the care, supervision and discipline of a child" (Fischer and Schimmel, 1982, p. 416).

But after the landmark case of Goss v. Lopez (1975), the Supreme Court established a precedent making clear that even short-term students' suspensions need due process²¹ (Fischer and Schimmel, 1982).

School administrators can suspend students unilaterally, in case of a proven emergency; but still have to go through due process as soon as practicable (Fischer and Schimmel, 1982).

Where the student's constitutional right of property (right to schooling) is in conflict with the efficiency of the school educational goals, a more extensive and formal due process procedure has to be followed.

1.7 Scope and Delimitations

Due process of law has never been precisely defined ... its meaning varies according to the situation (Fischer and Schimmel, 1982, p. 299). Therefore, the author will focus on a particular case in an urban Massachusetts public school district in 1990.

1.8 Summary

Public schools administrators have now found that standards and procedures exist as key guidelines in the

²¹In this case the students were suspended for ten days without receiving any notice or hearing, no specific charges, nor were they allowed to rebut charges, even on informal basis (Menacker, 1981).

dismissal of a teacher or the suspension of a student. Court cases have dramatically changed the procedures.

As a consequence school authorities are challenged to become up-to-date with "due process standards" to avoid costly and negative impact to their school systems.

Due process of law is basically a fair procedure, that courts have derived from the interpretation of 5th and 14th Amendments of our Constitution, to protect the liberty and property rights of teachers and students from the arbitrariness of the state's agencies. The kind and degree of "due process of law" required for teachers and students depends on what degree those rights (the teacher or student's property and liberty rights) are involved.

When the liberty or property rights of a teacher (or a student) are in conflict with the function of the school's educational goals, the court uses the balance test. This means that the court will hold for the student or the teacher, unless the school authorities prove that the teacher or the student obstructed the normal operations of the school.

As we can see throughout this chapter, due process of law is a concept that is highly related to legal technical concepts. Its meaning and interpretation vary according to the specific situation, the specific place and the specific time that we consider.

This causes us to view in a more detailed way (the preceding concepts of due process: the substantive and the procedural notice, the hearing, the opportunity to be represented, the impartiality of the decision makers, of the procedural due process). Also, the analysis that includes cases and research done in the area, related directly or indirectly to an urban school district during the last two decades. Thus, in the second chapter we will reflect on various cases.

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12. Vail v. Board of Education of Paris Unified School District No. 95, 706 F.2d 1435 (7th Cir. 1983).

CHAPTER 2

REVIEW OF THE LITERATURE

2.1 Goal of the Chapter

Chapter 2 will discuss literature that analyzes different landmark cases in-depth. The author will review the theoretical aspects of "due process of law" and research contributions related to the statement of the problem (i.e., How clear is due process to school administrators?) These contributions will be evaluated.

We will also see the different methodological contributions of some authors in the area.

2.2 Relevant Theoretical and Research Contributions in Due Process

Due process of law is needed only when the liberty or property rights of an individual are involved. If the state or any of its agencies deprive an individual of such rights, due process clause affords procedural and substantive protections to the individual (Bender, 1988).

By its very nature, due process is a flexible concept because it needs to balance and weigh the interest involved in any given situation (Bender, 1988). It means that its interpretation and application depends on the nature of the right affected (Valente, 1985). Thus school districts may create different procedures that may satisfy due process of law (Fischer and Schimmel, 1982).

2.2.1 Procedural Due Process

In reviewing the legal educational literature related to due process, the author has found common procedures in procedural²² due process that he repeated wherever property or liberty rights are violated. They are (1) fair and timely notice of the charges to the affected party or parties, (2) a provision of impartial hearing on these charges, to confront and challenge the adverse evidence and cross-examine accusers, (4) a fair opportunity to be prepared for the hearing, (5) a fair decision by an impartial tribunal, (6) the right to be represented by legal counsel.

Those are the same procedures spelled out by the Supreme Court in the landmark case Goldberg v. Kelly (1970).

Though courts make a distinction between the dismissal of tenured teachers and untenured²³ teachers, these

²²Procedural due process are the fair procedures that courts ask from the state to provide the individual the opportunity to be defended. While substantive due process imposes sanction on those rules and regulations that have no rational relation with school educational goals. For court substantive due process test, see first chapter.

²³There are some kind of "untenured" teachers that in fact are tenured teachers. This kind of tenure is called by courts as "de facto tenure". It is a teacher without tenure or even a formal contract, who has already clearly implied promise of continued employment (Bender, 1988). For instance, a faculty guide could imply a promise of tenure if it says that a teacher should "feel that he has permanent tenure as long as his teaching services are satisfactory and he displays a cooperative attitude towards

procedures (mentioned above) are the same when the untenured teacher is fired during the year of contract, or if the reasons for the nonrenewal of the contract are related to constitutionally protected rights.²⁴

Let's see these steps throughout different legal cases and research done in the area.

2.2.1.1 A Fair and Timely Notice²⁵

The notice has to be clear,²⁶ providing the affected party the opportunity to know the specific charges²⁷ and to

his co-workers and his superiors, and as long as he is happy in his work" (Bender, 1988, pp. 6-277).

²⁴In such cases, the burden of the proof relies on the untenured teacher (it means that the teacher has to prove that his constitutional right was violated) as happened in Jinkerson v. Lane City School District (1975). If the teacher asserts in proving that school administrators violated his constitutional right, then school administrators have to prove that they would have reached the same decision of firing the teacher, by the preponderance of evidence (it means that the board has enough and relevant evidence that prove the teacher's unfitness to teach) (Henderson, 1985) as happened in Doyle v. Mt. Healthy City School Dist (1982). As a matter of fact this is called "Mount Healthy Test" in the legal argot.

²⁵After having reviewed state's statutes to determine whether remediation applies (though courts haven't established how long we have to wait for the remediation, they have said that conduct is remediable if it is within the capacity of the teacher to relieve or cure, it is irremediable if it has already caused harm that cannot be corrected) (Bender, 1988), having complied fully with any statutory procedures serve upon the teacher written notice stating particularly the conduct if not corrected which may be grounds for dismissal (Valente, 1985); also, the notice has to be provided unless there is an immediate need to terminate in order to protect students.

²⁶Massachusetts Tenure Law, Ch. 71, S.42 "Removal of Teachers and Superintendents," p. 225.

²⁷Ibid.

refute them.²⁸ Notice must be afforded with sufficient information to be "meaningful" (i.e. to enable the addressee to evaluate the situation and to decide²⁹ whether and how to attend the hearing (Valente, 1985).³⁰

The notice has to have a "statement of the nexus between the teacher's conduct and his teaching responsibilities, if the facts do not obviously infer a nexus as happened in Board v. Spiegel (1976)" (Bender, 1988, pp. 6-285).³¹

If the board does not have statutory notice requirements for discharge or nonrenewal, it can develop its own notice procedures following this guideline, however it must not conflict with any existing statutes³² (Bender, 1988). Some researchers suggest that school boards and superintendents have lost their court cases because they had not given enough time to the other party and the notice was vague and unclear (Boivin, 1983; Imber and Gayler, 1988; Zirkel, 1988).

²⁸Ibid.

²⁹Ibid.

³⁰The Supreme Court has held that a teacher, regardless of tenure status, is entitled to notice.

³¹Board v. Spiegel (1976), where school administrators did not accomplish with these requirements. Also in Shipley v. Salem School Dist (1983) the board failed in accomplishing this requirement.

³²In several states discharge statutes expressly require that teachers be given prior notice of deficiencies that are remediable and opportunity to rectify them before any discharge proceedings (Valente, 1985).

2.2.1.2 The Right to Hearing³³

To meet due process "standards" a dismissal hearing³⁴ must be fair and meaningful. It has to follow to some degree the following checklist:³⁵

- a. Have established the time and place convenient to the parties.
- b. Have arranged and recorded the hearing (though constitutional due process requirements don't require it; it facilitates the administrative and judicial review).
- c. Is precise and limits the time of witnesses for both sides.
- d. If the conduct is related to criminal charges, consult and cooperate with prosecuting attorneys.
- e. Determine if any open meeting statutes apply and whether any records must be confidential.³⁶
- f. Any decision maker body member with personal interest or bias must refrain from participation.³⁷

³³Review state statutes administrative agencies statutes, employment contracts, and collective bargaining agreements to determine whether is a right to hearing.

³⁴Conducted by the School Board (Bender, 1988).

³⁵These are flexible procedures that depend highly on the circumstances, statutes, contracts, etc.

³⁶"If the hearing involves records, such as pupils' records, required to be kept confidential by the state or federal law, portions of the proceeding may have to be conducted in closed section" (Bender, 1988, pp. 6-288).

³⁷This is one of the points that frequently arises by the teachers or the students. Most of the time school administrators lose their case because courts place doubt

- g. Determine whether the teacher or teacher counsel have any objections on the time, place or procedures of the hearing.
- h. Get a quorum, read the allegations and confirm that the teacher has received a copy of them; give each party the opportunity to rebut the evidence, at the end invite the parties to make closing statements; after explaining the timetable and the procedures to be used for rendering the decision, adjourn the hearing (Bender 1988).

2.2.1.3 The Opportunity to be Represented

Implicit in the due process protections of a teacher is the right to counsel; even though counsel may not have constitutional right to participate at hearings in all circumstances (Bender, 1988; Valente, 1985) but comport with notions of fundamental fairness counsel must be afforded, with the opportunity to listen to testimony and cross-examine witnesses (Zirkel and Gluckman, 1985).

2.2.1.4 The Evidence

In upholding the dismissal the court has emphasized the needs of schools to maintain the quality and the

about the impartiality of the decision makers body, as happened in Staton v. Mayes (1977). If the board members recognize existence of an interest or bias, appoint a hearing officer to conduct the hearing, draft the findings of the fact and make recommendation to the board (Bender, 1988).

integrity of their educational programs.³⁸ Thus the evidence has to be related to this principle.

The evidence should be relevant, credible, objective and preponderant. That it is directly related to the issue, worthy of belief, factually provable, substantial enough in weight of testimony (Foldesy, 1987) records and incidents (John, 1983). As Castetter says: "... interviews, suggestions for improvement, admonitions,³⁹ performance history⁴⁰ and evaluations⁴¹ of the teacher and memoranda of efforts to assist the individual to improve performance are vital to the dismissal procedure"⁴² (Castetter, 1986, p. 421).

Research suggests that school principals fail in collecting and recording⁴³ the necessary evidence⁴⁴ (Boivin, 1983; John, 1983; Imber and Gayler, 1988).

³⁸As happened in Beilan v. Board of Education (1958).

³⁹Awareness of an individual, marginal performance is usually not a realization that develops suddenly. Thus, there is a need of admonition that by itself can be used as evidence (Castetter, 1986).

⁴⁰Court brings special attention to the frequency of the alleged misconduct (John, 1983); Shipley, 1965).

⁴¹The evaluation instruments have to be valid and reliable. Some recent court decisions have cast some doubt upon the fairness and apparent validity of some evaluation instruments, as evidence of discrimination (Bender, 1988).

⁴²Courts tend to rely on the judgement of school administration in determining teacher dismissal when charges are specific, well documented and substantiated (Foldesy, 1987).

⁴³Walter S. John (1983) defines "... properly recorded" as "(1) Entering appropriate dates and times, (2) Stating complete names of involved parties, (3) Obtaining signatures of appropriate parties, (4) Listing of all

The valid evidence should prove the following six standards were applied (John, 1983):

- a. a persistent nature of the difficulties⁴⁵
- b. repeated warnings - orally and written
- c. frequent assistance - a genuine effort to help the staff
- d. adequate time and opportunity to improve
- e. close supervision
- f. a normal⁴⁶ and ordinary work situation - at this point Walter S. John points out: "The staff member's performance was observed under usual and normal circumstances, no exceptional conditions. In other words, no extenuating circumstances existed which adversely influenced the person's performance or conduct" (John, 1983, p. 105).

witnesses, (5) Notorizing statements, (6) Verifying by witnesses that the statements they signed contained true and correct information" (p. 105).

⁴⁴The collected evidence is not relevant, sometimes is not credible, is not objective and most of the time is not preponderant (Edmister and Edstrand, 1987; John 1983; Remley and MacReynolds, 1988; Sacken, 1987; Zirkel, 1985).

⁴⁵Except, as Walter S. John (1983) says: "... for exceptionally improper conduct, the conduct of the staff member has been observed and recorded as being persistently unsatisfactory" (p. 104).

⁴⁶Courts have established clearly that "dismissals for isolated slips of judgement or unwise action under emergency stress are disfavored and overturned" (Valente, 1985, p. 431). See case of Landry v. Ascension Parish School Board (1982).

2.2.1.5 To Question Witnesses

Another fundamental requisite of due process is the opportunity to present testimony in one's own behalf and to confront any adverse witnesses (Bender, 1988). This right is even more important when the adverse evidence consists of testimony of individuals. The statutes of many states (including Massachusetts Tenure Law) expressly provide parties a right to confront witnesses.

In our particular subject (the dismissal of a teacher or a suspension of student by cause), the "educational expert opinion evidence" has proved effective in dismissal proceedings on the issue of a teacher's competence or job performance.⁴⁷

2.2.1.6 Impartial Judge

The judge determines whether any member of the decision making body has such personal interest or bias that they may not be able to decide impartially. If so, ask any such member to refrain from participating in the hearing or consider appointing an independent examiner to conduct the hearing and to make recommendations to the board (as the author pointed out before).

Only the members of the decision making body are allowed to participate in the dismissal deliberations, that will be based on substantial evidence introduced at the

⁴⁷As happened in David v. Board of Calloway (1979).

hearing⁴⁸ and supported by a majority of them (Bender, 1988).

2.2.2 Student Due Process

Due to the doctrine of "in loco parentis", teachers and administrators have broad discretion in matters related to students (Fischer and Schimmel, 1982). Since "in loco parentis" societal beliefs have been a part of us for several decades.

Nevertheless as has happened with teachers dismissal procedures, the courts have modified the way school administrators may deal with student suspensions (Gluckman, 1985) and expulsions, as we can see in several landmark cases. For instance, in Dixon v. Alabama State Board of Education (1961) the court mandated that student expulsions need due process of law⁴⁹ (Fischer and Schimmel, 1982).

2.2.2.1 Long-Term Suspension

In a very significant decision in situations of students' expulsion, the Supreme Court came up with a general rule in serious disciplinary matters. This rule should be used in infractions that could result in

⁴⁸No decision could be taken with evidence not introduced at the hearing (Valente, 1985).

⁴⁹As was pointed out in the first chapter, the students have the rights of property (right to schooling, if the state is given the services) and the liberty right, when in the suspension is involved their reputation, (sometimes the opportunity to study in another school or university or to get a job is affected by the suspension).

expulsion or long-term suspension (Fischer and Schimmel, 1982). It is, as Fischer and Schimmel (1982) describe it:

1. Notice of hearing, including
 - a. the time and place
 - b. a statement of the alleged infraction(s)
 - c. a declaration of the student's right to legal counsel
 - d. a description of the procedures to be followed in the hearing
2. Conduct a hearing, including
 - a. advisement of student's right to remain silent
 - b. the presentation of evidence and witnesses against the student
 - c. Cross-examination of the accusatory evidence
 - d. the presentation of witnesses on behalf of the student
 - e. the recording (either by tape or in writing) of the proceedings
3. Finding(s) of hearing, including
 - a. recommendation(s) for disciplinary action, if any
 - b. reporting of findings to appropriate school authorities (e.g., the Board of Education)) and to the student

4. Prompt application of disciplinary measure(s), if any, including the right to appeal⁵⁰ (pp. 316-317).

2.2.2.2 Short-Term Suspension

It was not until Goss v. Lopez (1975) that courts recognized that even short-term suspensions need some kind of due process. The Supreme Court suggested in this case that even "...suspension for one day merits some modicum of due process" (Fischer and Schimmel, 1982, p. 318). At least the student should receive the specific charges, the evidence against him, and, if he refutes them, have the chance to present his side of the incident (Fischer and Schimmel, 1982).

2.2.2.3 "Handicapped" Student

In addition, court urges use of common sense in discipline cases (Gluckman, 1985; Streitmatter, 1986). Mainly when school administrators deal with handicapped students. The court's trend in dealing with handicapped students seems to call for a more extensive formal due process procedure. As a consequence of the interpretation of the procedural requirements of P.L. 94-142 and section 504 (Zirkel, 1988).

⁵⁰As we can see the procedural due process for students expulsion or long term (more than ten days) suspension has similarity with the teachers procedural due process. Also, as happened with teachers due process, it is a model "... rarely adopted in their entirety by courts or school authorities" (Fischer and Schimmel, 1982, p. 317).

Though the literature suggests many court inconsistencies in the early seventies, "... cases in the late seventies and eighties reflect more consistent interpretations of P.L. 94-192 and section 504" (Peterson, 1986, p. 31). From the latter cases we can make a general guideline of the "procedural due process" as Susan K. Peterson (1986) summarizes it:

1. A handicapped student could be suspended immediately if he represents danger to himself or others.
2. A handicapped student may be suspended for ten days (or less) using the same minimal due process procedures for regular students.
3. If disciplinary action is longer than ten days, there must be a determination by a qualified group of persons regarding the appropriateness of the student's current placement.
4. If a qualified group of persons determines that the student's misconduct is related to his handicap, he may not be expelled.
5. If the student's misconduct is not related to his handicap he may be expelled, but all educational services may not be terminated (p. 31).

2.2.3 Research Contributions

One of the most common ways to research this area is an analysis of the cases and their outcome in Massachusetts and other states. Such a study was undertaken by Michael Imber and David Gayler ("A Statistical Analysis of Trends in Education--Related Litigation Since 1960").

This study analyzes the rate of change in education-related litigation from 1960 to 1986. Also the study compares them with the rates of cases of other states in areas like law, medicine and civil service (Imber and Gayler, 1988).

Though the data collected and analyzed in these methods is highly reliable, the methods have several limitations. There is no direct way to count the number of educationally related cases in the trial courts of a particular year (Imber and Gayler, 1988). Also, as they point out, "Most state trial-court decisions do not result in published opinions, and although statistics concerning the total amount of litigation by state are available, they are not categorized" (Imber and Gayler, 1988, p. 57).

In addition, they included in their research private institutions, all kinds of educational litigation, since 1960, that do not have relevance with the hypothesis that author will test.

Nevertheless, the Imber and Gayler study (that includes the entire nation) shows that there is a tendency to increase the rate of special education litigations.

A research (a survey) done by Perry Zirkel included sixteen legal educational questions. Though the questionnaire is easy to answer and tabulate, it doesn't measure the knowledge of the different aspects of due process. In his survey ("Test your legal savvy") he includes other legal aspects in addition to due process. Zirkel's intention was not to measure exclusively the due process knowledge of school administrators (Zirkel, 1985), and "correlations" as this study will do.

Finally, Real G. Boivin did a research entitled "What Do You Know About Due Process?" This research survey has three parts. Part I brings different due process related cases to the school principal and some questions related to them. Part II gives twenty-three multiple choice questions related to different categories of due process, where the principals will reflect their opinions. Part III: the school principals answer questions that measure their due process general principles knowledge with "true, false, or don't know".

Boivin's research is an excellent work to discuss because it quantifies what school administrators know about due process basic procedures; the sample is similar to the

author's research sample; this research limits its questions to civil due process related cases. The other two researches did not. Our study will qualify and quantify what a selected group of administrators know about due process in specific areas, as Boivin's research did.

2.3 Summary

Due process of law is needed when a liberty or a property right is involved as in the suspension or expulsion of a student and the dismissal of a teacher. It needs to weigh the interest and degree of interest involved in each situation. Thus due process procedures are flexible in their nature.

Although due process procedures are flexible, courts have established a flexible guideline that is similar for untenured and tenured teachers, and whenever a liberty or property right of teachers is involved. Nevertheless, tenured teachers have more legal protection due to state tenure laws.

Due process for students is needed no matter the length of the suspension; but the longer the suspension the more formal the due process required for the students. Due process for handicapped students is similar to that extended to other students if the suspensions are for less than ten days, except if the misconduct is related to the handicap, there should not be a suspension.

Research done in the legal educational area uses different kinds of methodology. For our purpose, to know how much selected School Administrators are aware of the basic principles of due process (at this time), the survey research seems to be the most appropriate. Thus, in the next chapter we will discuss our research methodology in-depth.

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Law

Massachusetts State Government: Massachusetts Tenure Law.

Boston, Massachusetts.

CHAPTER 3

RESEARCH METHOD

3.1 Goals of the Chapter

This chapter explains the research methodology. The research method that will help to provide answers to the questions posed in the first chapter of this attitudinal study.

The chapter describes the population size and its characteristics; the instrument's name, purpose and why it was chosen; the design and its weaknesses. In addition, it has a description of the procedures of the research, including the "follow-up" letter formats, and the target dates by when they are to be accomplished.

Finally, there is a section that explains how the raw data is analyzed (Hambleton, 1988), presented and organized. It is designed in parts and by questions.

3.2 Description of the Target Population

The research method involves approximately 82 percent of the entire population of responding school principals and vice-principals, of an urban public schools district in Massachusetts. That is a total of 40 principals and vice-principals from a total of 49 vice-principals and principals.⁵¹

⁵¹The entire population is not participating, therefore, we are talking about a "cluster sample" of Massachusetts public administrators.

3.3 Research Guiding Questions

From this sample, the author answers the following questions:

1. Are these public school vice-principals and principals familiar with the basic elements of due process for dismissing a teacher or for the suspension of a student?
 - a. To what degree are they familiar with it?
 - (1) Do they know what substantive and procedural due process are?
 - (2) Do they know when a school policy handbook violates substantive due process?
 - (3) Do they know the procedural due process to dismiss a tenured or an untenured teacher?
 - (4) Do they know the procedural due process to dismiss a tenured or an untenured teacher?
 - (a) Whether or not the alleged misbehavior is deemed serious enough to bring long periods of suspension or to damage his reputation?
 - (b) Due process for handicapped students differs from the one for regular students?
2. When did they take a legal education course, workshop or seminar related to due process?

3. Will a handbook that includes proper procedures be helpful to them?
4. Do they have a positive attitude⁵² toward due process?
 - a. Teachers?
 - b. Students?
 - (1) Regular students?
 - (2) Handicapped students?

3.4 Design and Instrument

These guiding questions (Guba, 1961) suggests that this research follow a descriptive design, that is: "... primarily concerned with finding out, 'what is'"⁵³ (Borg and Gall, 1983, p. 354).

⁵²As Borg and Gall (1983) say:

An attitude is usually thought of as having three components: an affective component, which consists of the individual's feelings about the attitude object; a cognitive component, which is the individual's beliefs or knowledge about the attitude object; and a behavioral component, which is the individual's predisposition to act toward the attitude object in a particular way (p.341).

⁵³In this particular case "what is" is: Are our urban Public School principals familiar with the basic elements of due process for dismissing a teacher or for the suspension of a student?

3.4.1 Description of the Design

Among the different descriptive designs, the survey⁵⁴ has been chosen as the most appropriate. It uses a questionnaire as an instrument. The objective is to collect necessary data as quickly as possible, keeping the respondents anonymous⁵⁵ without losing the questionnaire's credibility.

3.4.2 Description of the Instrument

The questionnaire has three parts (See Appendix A). The first part has twenty-five belief statements, using the Likert scale⁵⁶. The first twelve items of it are related to due process for teachers. The last thirteen belief statement items are related to due process required for students. The objective is to get the principal's attitude toward U.S. court due process decisions (through statements related to landmark cases related to teachers' dismissals and students' suspensions). Each answer is weighted positive, zero or negative, according to the kind of answer in comparison to the court's statement. There are five possible choices: strongly agree, agree, undecided,

⁵⁴The information is not collected from the entire population (Borg and Gall, 1983).

⁵⁵Questions related to due process, might threaten the respondents, thus if the subject remains anonymous it may bring more honest responses (Borg and Gall, 1983).

⁵⁶With a little modification, it is included in the "undecided" alternative in order to bring broader answers alternative.

disagree, strongly disagree, weighted +2, +1, 0, -1, -2, respectively; the more the answer's similarity with the court statement the higher the magnitude of the positive number, and the less the similarity the more the magnitude of the negative number. Thus, the scores will fluctuate from +50 (the highest positive attitude), to -50 (the highest negative attitude).

The second part of the questionnaire has twenty multiple choice questions for testing their knowledge of due process basic elements at this time.

This part is subdivided in such a way that the principal's answers will show the degree of familiarization with the different aspects of due process. That is, the first five items are related to due process in general (e.g., substantive due process and procedural due process in general), its definition and procedures. From item number six through item number fifteen, of the second part, the principals will answer the tenured and untenured teachers due process related questions. The last five items, from item number sixteen through item number twenty, principals' procedural due process knowledge is measured.

Finally, the third part has two personal questions in order to know the last time the administrator attended a legal educational workshop, or seminar, or class; and if

they consider that a handbook including a due process proper procedures will be helpful to administrators.

The next figure summarizes the above explanation.
(See Figure 3.1)

	A) Students
	Items 1-12
Part I: Attitudes	
Toward Due	
Process of	B) Teachers
Law for	Items 13-25
	A) Due Process in
	General:
	Items 1-5
Part II: Due Process	
Knowledge	B) Tenured and Untenured
	Teachers Due Process:
	Items 6-15
	C) Students Due Process:
	Items 16-20

Fig 3.1: Description of the Instrument

continued, next page

Part III: "Statistical
Questions"

A) The last legal
educational
class or workshop

B) Teachers' Dismissals
and
Students' Suspensions
Handbook

Fig 3.1, continued

3.5 Weaknesses of Research Design

Like all research design (Imber and Gayler, 1988) the one described above has some weaknesses (Smith, 1970). Those have to be taken into consideration if conclusions or inferences, are to be made.

The primary disadvantage is that sometimes it is difficult to get the subjects' true attitudes (Tittle and Hill, 1967) (see Part I) as with items that are in conflict with his/her professional interests, professional group or professional norm. Second, as an anonymous questionnaire (that is needed - Borg and Gall, 1983) it is not possible to make much of a "statistical"⁵⁷ breakdown and a more in-depth analysis of the target population (Borg and Gall, 1983). Third, non-respondent subjects are impossible to identify because of their anonymity.

3.6 Procedures and Dates

This researcher sent a letter to the school Superintendent of an urban school department asking for a research permit, (see Figure 3.2) including the questionnaire and the "follow-up" letters (see Figure 3.3) that are sent to the principals together with the questionnaire.

⁵⁷If the total population participated it would not be "statistical", since this term is related to analysis done with samples of the target population (Jaccard and Becker, 1990). An 18% (eighteen percent) of the target population does not participate.

Graduate School of Education
University of Massachusetts
Amherst, MA 01003

Francie Velazquez
Graduate Student
January 26, 1990

Superintendent of Schools

Dear Sir:

The attached survey instrument (and its follow-up letter) concerned with due process in dismissing teachers and suspended students, are part of my doctoral dissertation research project. This project is concerned specifically with determining the present knowledge and attitudes "toward due process of law". The results of the study will help to provide part of the criteria to be used for developing a "Due Process Handbook", that your school district may have made available to you.

It will be greatly appreciated to receive permission from your school department to initiate this study.

Other parts of this research cannot be carried out until I complete the analysis of the data provided by your principals.

I would welcome any comments that you may have concerning any aspect covered or not covered in the instrument. Your comments will be held in strictest confidence. I will be pleased to send you the results if you desire.

Sincerely yours,

Francie Velazquez
Graduate Student

Fig 3.2 Letter to the Superintendent

University of Massachusetts
Amherst, MA 01003

Francie Velazquez
Graduate Student
January 26, 1990

Dear Principal:

The attached survey questionnaire and the Superintendent's letters are parts of the procedures used in a dissertation research. This research is concerned especially with determining your knowledge of "due process of law". The results of this study will help to provide part of the data needed to develop a handbook that will include proper procedures to use in dismissing teachers and to suspend students.

I am particularly desirous of obtaining your voluntary responses because your experience will contribute significantly. I would welcome any comments that you may have concerning the questionnaire. Your response will be held in strictest confidence; that is precisely the reason of the questionnaire anonymity. Feel free to take any step that increases the anonymity of your participation.

It will be appreciated if you would complete the enclosed form prior to February 15, 1990, and return it in the stamped special delivery envelope enclosed.

I really will be pleased to send you the handbook at the end of the year. Thanks again for your cooperation.

Sincerely yours,

Francie Velazquez
Graduate Student

Figure 3.3 Follow-up Letter to the Principals

From the end of January 1990 through the end of February 1990, the author sent the questionnaire to school principals. By the end of March 1990 the raw data was collected, and analyzed. (82 percent returned the questionnaire, that is considered a very significant and substantial return from which to draw significant conclusions.)

3.7 Data Analysis

An overall questionnaire mean ⁵⁸ is computed and compared. We work with a first part's mean (i.e. attitudes) (see footnote 58) and a second part's mean (see footnote 8). This is in order to compare the central tendency with the individual value (Jaccard and Becker, 1990).

The same procedure is done with parts: IA, IB, IIA, IIB, IIC, IIIA, IIIB.

The purpose is to get an idea and to make "inferences" between means (the population) and each individual score (e.g. dispersion). This brings a solid view of the areas that principals seem to master and the areas which seem to need staff development.

The above central tendencies are compared with part IIIA, trying to see if there is some kind of positive

⁵⁸The mean instead of the mode, because there is not an outlier questionnaire value.

correlation (Vazquez, 1971). This would suggest if there is a need for a staff development workshop for these principals.

Finally, a score of 70 percent⁵⁹ or less in the second part suggests serious implications for the school and the system.

The above computation (mean; mode; standard deviation; individual total score; part and sub-parts percentages; the percentages of the correct responses of each item, etc.) are presented in tables and figures. This is in order to bring a clear idea (American Psychological Association [APA], 1988) of what is happening with our target population. The means, tables and figures will address how familiar the school principals and vice-principals are with due process of law for dismissing teachers and suspending students.

⁵⁹14 correct answers ($20 \times .7 = 14$).

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CHAPTER 4

THE FINDINGS

4.1 Introduction

The raw data obtained with the instrument, is organized in this chapter. In order to obtain clarity in the presentation of the findings, it is organized around the research questions (Borg and Gall, 1983). Thus, the data is organized by items because we are interested in knowing the performance of the principals in each subject or area.

4.2 The Familiarity of School Principals With Due Process in General.

The results from the second part of our instrument (see Table 4.1) shows that only six questions (Items 2, 9, 13, 14, 15, 16) from the twenty questions were correctly answered by 78 percent of the 40 respondent principals.

If we see each principal score in Table 4.2, and look for the principals' scores mean (that is 10.55⁶⁰) and the standard deviation (that is 3.14⁶¹) we could conclude that our sample of school principals lacks a high degree of familiarization with due process in general.

⁶⁰10.55 is near to 53% of the value of part A.

⁶¹In other words, a high percent of our sample is located between the scores of seven and fourteenth ($10.55 - 3.14 = 7.41$ and $10.55 + 3.14 = 13.69$). Thus if we look on Table 4.2 for principals that are in this range we get a total of a 32 ($3+3+6+5+4+5+2+4$), that is 80% of the principals were between 35% and 70% part I value (Smith, 1970).

Table 4.1

Part II: Due Process Knowledge

Item #	Item Score	% of the correct responses
1	18	18/40=45%
2	34	34/40=85%
3	22	22/40=55%
4	14	14/40=35%
5	3	3/40=7.5%
6	11	11/40=27.5%
7	11	11/40=27.5%
8	11	11/40=27.5%
9	33	33/40=82.5%
10	24	24/40=60%
11	4	4/40=10%
12	22	22/40=55%
13	33	33/40=82.5%
14	35	35/40=87.5%
15	39	39/40=97.5%
16	31	31/40=77.5%
17	14	14/40=35%
18	18	18/40=45%
19	26	26/40=65%
20	19	19/40=47.5%
422		422/800=52.75%

Notes:

- 1) $(40 \text{ principals}) \times (20 \text{ items}) = 800$
- 2) mean by principals = $422/40 = 10.55$ for twenty items
- 3) mean by items = $422/20 = 21.1$ for forty principals

Table 4.2

Part II: Scores of Due Process Knowledge

Score (x)	f	Total	$x - \bar{x}$	$f(x - \bar{x})^2$
1	1	1	9.55	91.2025
5	1	5	-5.55	30.8025
6	1	6	-4.55	20.7025
7	3	21	-3.55	37.8075
8	3	24	-2.55	19.5075
9	6	54	-1.55	14.415
10	5	50	-.55	1.5125
11	4	44	.45	.81
12	5	60	1.45	10.5125
13	2	26	2.45	12.005
14	4	56	3.45	47.61
15	5	75	4.45	99.0125
		422		385.9

1) f = frequency (principals with the same score).

2) $\bar{x} = 422/40 = 10.55$ for twenty items.

3) $s = 385.9/40-1 = 3.14$.

In order to get a better idea of what the results mean, we will analyze the data by sub-areas of interest according to our research questions.

4.3 Substantive and Procedural Due Process

Questions one through five from part I were designed to determine the principals' familiarity with procedural and substantive due process. The results of these items are organized on Table 4.3 (please refer to it).

We see from the results of this table that the numbers are not any better than Table 4.2 since 2.28! is the principal score average in this part.⁶² That is less than 50 percent⁶³ from a total of five points expected in each principal. It means that more than 50 percent of our sample seem not to have a clear understanding of what procedural and substantive due process are⁶⁴

For instance, in item number four, which is the one related to substantive due process in school handbook policy, 35 percent⁶⁵ of the forty principals that responded got the correct answer. In other words 65 percent of the principals⁶⁶ are not clear when a school policy handbook violates the substantive due process of law. The

⁶²Note, that we have five items instead of twenty, that is the total for the entire part I.

⁶³ $2.28/5 = 45.6\%$.

⁶⁴With serious implications.

⁶⁵ $14/40 = 35\%$.

⁶⁶Because, 40 principals minus 35% of them (14) = 26 principals, that is 65%!

implications are serious since principals use these handbooks on a daily basis, in one way or another.

Table 4.3

Substantive and Procedural Due Process Knowledge Items

Item	Totals	% of correct responses
1	18/40	45%
2	34/40	85%
3	22/40	55%
4	14/40	35%
5	3/40	7.5%
	91/200	45.5%

1) mean by principals

$91/40 = 2.28$ from five items

2) mean by items

$91/5 = 18.2$ from forty principals

4.4 Procedural Due Process to Dismiss a Teacher Items Results

These are the results from Item 6 through Item 15 (see Table 4.4). They show a better principal's performance in comparison to the analyzed proceedings parts. Since the mean is 5.6 points, that is 56 percent from the total of ten points expected from each principal in these ten items (Items 6-15). Also the mean by item is 22.3⁶⁷ that is better than other items means (from the proceedings sub-parts). Just for illustration 40 percent of the items⁶⁸ totals, scored more than 82 percent, that is good. Though, this area needs to be improved⁶⁹ by principals, they did better than in other areas in the other due process area (already analyzed).

4.5 Students Due Process Results

The results from students due process related questions are organized on Table 4.5. They show the same pattern we have seen in other sub-parts.⁷⁰

However, Tables 4.4 and 4.5 show a significant difference. We have more uniformity or similarity in each "items accumulated points" in Table 4.5 (students due

⁶⁷223 points/10 items=22.3.

⁶⁸Items: 9, 13, 14, 15.

⁶⁹Because 40% of the items (Items 6, 7, 8, 11) got 27.5% or less, that is a considerable percent of wrong answers.

⁷⁰It means low scores accumulated by items and low scores accumulated by principals.

Table 4.4
Due Process Items for Teachers

Item	Totals	% of correct responses	$(x-\bar{x})$	$(x-\bar{x})^2$
6	11/40	27.5	11.3	127.69
7	11/40	27.5	11.3	127.69
8	11/40	27.5	11.3	127.69
9	33/40	82.5	10.7	114.49
10	24/40	60.0	1.7	2.89
11	4/40	10.0	18.3	334.89
12	22/40	55.0	.3	.09
13	33/40	82.5	10.7	114.49
14	35/40	87.5	12.7	161.29
15	39/40	97.5	16.7	278.89
Ten items	(223/400)	55.8		1390.10

1) Mean for items is $223/10 = 22.3 = \bar{x}$ from forty principals

2) Principals mean $223/40 = 5.6$ from ten items

3) Standard deviation for items is the square root of $1390.1/9 = 12.43 = s$

Table 4.5

Students Due Process Items

Items	Totals	%	$(x-\bar{x})$	$(x-\bar{x})^2$
16	31/40	77.5	9.4	88.36
17	14/40	35.0	-7.6	57.76
18	18/40	45.0	-3.6	12.96
19	26/40	65.0	4.4	19.36
20	19/40	47.5	2.6	6.76
	108/200	54		185.2

1) mean for item = \bar{x}

108 accumulated score / 5 items = 21.6 from forty principals.

2) mean for principals

108 accumulated score / 40 principals = 2.7 from five items.

3) $s = 6.8$

process related questions) than in Table 4.4 (teachers due process related question). If we compare the range⁷¹ on Table 4.4 that is 28 with the range on Table 4.5, that is 17 we easily conclude that Table 4.5 data shows more uniformity (Jaccard and Becker, 1990).

Though the overall percents of correct answers are similar,⁷² that is 55.8 percent for Table 4.4 and 54 percent for Table 4.5, the ranges are not. Therefore, these results suggest⁷³ more principal answers consistency in students' due process related questions than in teachers' due process related questions.

Other no less important items result from this table (Table 4.6), are item numbers sixteen, seventeen, eighteen and nineteen results⁷⁴ They behave in the same way did by the others parts results. For instance, 55.6% is the efficiency's percentage that is closest to the other analyzed parts efficiency percentage.

⁷¹Range is the highest accumulated points minus the lowest accumulated points (Jaccard and Becker, 1990). For Table 4.4 is $39-11=28$, and for Table 4.5 is $31-14=17$.

⁷²The overall percentage of efficiency is 55.8% in Table 4.4 (the procedural and substantive due process for teachers area), that is calculated from the total accumulated points in principals answers, from Item six through Item fifteen, divided by the total of principals, that is $223/400=55.8\%$. In the same way the overall percentage of efficiency for Table 4.5 is $108/200=54\%$.

⁷³We can conclude, because the standard deviation is greater in Table 4.4 than in Table 4.5.

⁷⁴These results are the answer of one of our research guiding questions (please see Section 3.3, question 1.a.(4)(a)).

The totals and results already seen, seem to indicate a weakness for principals in relation with their due process knowledge. Also this leads us to make an analysis of when these participants last took a legal educational course or workshop, if ever.

If we see Table 4.7 we could see that 47.5% of our participants have had the opportunity to learn the more recent issues in due process.

Table 4.6

Suspension or Expulsion of a Student

Item	Totals	% of correct responses
16	31/40	77.5%
17	14/40	35.0%
18	18/40	45.0%
19	26/40	65.0%
	89/160	55.6%

Table 4.7

The Latest Workshop or Course Date

Year	Total of principals	%
1984-1989	19	$19/40=47.5\%$
1978-1983	6	$6/40=15\%$
1972-1977	4	$4/40=10\%$
before 1972	5	$5/40=12.5\%$
None	6	$6/40=15\%$

But, 52.5 percent⁷⁵ have not taken a course or workshop at least since 1983.⁷⁶

Thus, the results show a consistency between principals scores and the year that they have taken a legal educational course or workshop. That is, the higher the score the more recent the year they took a legal course or workshop.

Perhaps, the best way to show this is organizing each principal score in comparison with the year that the principal has taken the latest course or workshop in this subject. Thus, refer to Table 4.8. As we can see from Table 4.8, 89 percent⁷⁷ of those getting the highest score studied in the years of 1984 to 1989. Furthermore, sixteen from the nineteen scores belonging to 1984-1989 years are over the mean (that is 10.55). Two (from the rest of three) are under, but closest to the mean. In other hands those who got eight points or less (that is, 40% of this part value or less) have not taken any course or workshop at least since 1977.⁷⁸

⁷⁵If we add 15% + 10% + 12.5% + 15% we get 52.5%.

⁷⁶Some recent 1988 courts decisions have changed some "procedural due process" interpretation as happened for instance with P.L. 94-142 and Section 504. Is this 52.5% of principals aware of it? Because they have not taken any legal educational course or workshop since 1983.

⁷⁷The highest scores were 14 and 15, that were obtained by nine principals. Eight of those principals took a course or a workshop during the latest years. (i.e., $8/9 = 89\%$ of the eight principals).

⁷⁸ $7/9 = 77.7\% = 78\%$.

Table 4.8

Date of the Workshop or Class and Principals'Part II Scores

Year		Score
1.	None	1
2.	b-72	5
3.	72-77	6
4.	b-72	7
5.	78-83	7
6.	b-72	7
7.	72-77	8
8.	72-77	8
9.	78-83	8
10.	None	9
11.	None	9
12.	b-72	9
13.	72-77	9
14.	78-83	9
15.	84-89	10
16.	b-72	10
17.	78-83	10
18.	78-83	10
19.	84-89	9
20.	84-89	10
21.	78-83	11

10.55= \bar{x}

continued, next page

Table 4.8, continued

22.	84-89	11
23.	84-89	11
24.	84-89	11
25.	None	12
26.	None	12
27.	84-89	12
28.	84-89	12
29.	84-89	12
30.	84-89	13
31.	84-89	13
32.	None	14
33.	84-89	14
34.	84-89	14
35.	84-89	14
36.	84-89	15
37.	84-89	15
38.	84-89	15
39.	84-89	15
40.	84-89	15
Total		422

84-89 = 1984-1984

78-83 = 1978-1983

72-77 = 1972-1977

b-72 = before 1972

None = Has not taken

 $\bar{x} = 422/20 = 10.55$ $s = 3.14$ (from Table 4.2)

Nevertheless, these results seem to show a positive correlation between years and scores,⁷⁹ there is no indication to conclude that the overall performance is satisfactory.⁸⁰

Because of these factors it is understandable why 100 percent of the participants agreed that there is a need for a handbook including the proper procedures of due process. As a matter of fact, some of the participants were precise and clear in pointing out that it is an absolute need.

An inevitable question arises according to these results, what about the principals' attitudes toward due process?

4.6 Attitudes Toward Due Process in General

Their attitudes toward due process may influence their behavior and potential for learning (Knowles, 1984). Therefore, it is important to examine this area as well. Let's take a look at Table 4.9.

If we get a Part I total from the first twenty scores of Part II, we have 244, similarly, if we get a Part I total from the last twenty scores of Part II, we have 370. Obviously, those who got better scores in Part II have better attitudes toward due process, though both sectors

⁷⁹It means, the higher the score in the second part, the more recent the workshop or course taken.

⁸⁰Thirty-one scores were under fourteen points (that is less than 70%). It says that approximately 78% of the scores were below 70% of part II total value.

have positive attitudes toward due process in general, as we can see from the positive results.

At this point, we have to remember that 89 percent of Part II highest scores, recently have taken a legal educational course or workshop. This would imply a positive correlation between attitudes vs. the mastering of due process.⁸¹

Getting a positive attitude toward due process in general, does not mean that we get the same attitude toward teachers and students due process. The results from this study show that there is a significant difference between the participants' attitudes in due process for teachers and their attitude for student rights. The following three parts show this difference.

4.7 Attitudes Toward Due Process for Students and Teachers

Following the same pattern that we have followed before, we see a difference between the principals' attitudes to due process for teachers in comparison to principals' attitudes to students due process. A look at the following Tables 4.10 and 4.11 reveal these differences.

⁸¹In fact there is literature that suggests it (Gordon and Merrian, 1982). But remember this 89% represents the highest scores, that does not mean excellent scores.

Table 4.9

Due Process Knowledge and Attitudes

Part II	Part I
1	6
5	5
6	22
7	11
7	11
7	21
8	11
8	15
8	31
9	6
9	10
9	4
9	6
9	20
9	2
10	12
10	8
10	15
10	8
10	20
11	23
11	16
11	25
11	29
12	18
12	25
12	16
12	17
12	30
13	-3
13	13
14	10
14	17
14	22
14	25
15	13
15	15
15	17
15	17
15	25

422

614

Table 4.9 organizes part II scores, from lowest through highest score, in relationship with each principal part I score.

As we compare these results we can quickly conclude that principals have much better attitudes toward teacher due process than for student due process. The difference is highly visible, there is no need for advanced mathematical procedures, to show how significant the differences are for instance, 56.8 percent is the percent of the overall positive attitude for teachers, meanwhile 6.44 percent for the students.

Furthermore, if we analyze the results from item number thirteen through item number twenty-two (see Table 4.12) and compare them with the results of the items number twenty-three through item number twenty⁸² (see Table 4.13), we will see a dramatic difference of how different is the attitude for regular students in comparison to handicapped students and teachers.

⁸²Remember that Items 13 through 22 belong to due process for regular students, while the Items 23-25 belong to due process for handicapped students.

Table 4.10

Attitudes Towards Teachers Due Process

Item	Total
1	68
2	23
3	25
4	67
5	60
6	49
7	63
8	-21
9	39
10	61
11	61
12	52
	547

1) The mean per item is $\bar{x} = 547 \text{ points} / 12 \text{ items} = +45.58$ by items where the minimum scores per item is -80, $(40x-2)$ and the maximum scores is +80, $(40x+2)$.

2) Percent of positive attitude efficiency (i.e., total accumulated points divided by totals of principals, times totals of items, times maximum positive).

$$(\%) \text{ efficiency} + = \frac{547}{40 \times 12 \times 2} = 56.98$$

Table 4.11

Attitude Toward Students Due Process

Item	Total
13	43
14	-28
15	-27
16	-7
17	-15
18	-24
19	21
20	30
21	-19
22	8
23	10
24	41
25	34
	67

- 1) The mean for item is $\bar{x} = \frac{67 \text{ total accumulated points}}{13 \text{ items}} + 5.15$ by item where the minimum scores would be -80 (that is $40x-2$), and the maximum score would be +80 (that is $40x+2$).
- 2) Overall percent of positive attitude of efficiency = total accumulated points divided by totals of principals' time totals of items, time maximum positive score

$$(\%) + = \frac{67}{40 \times 13 \times 2} = +6.44\%$$

Table 4.12

Attitudes for Regular Students
Items #13-#22

Item	Total
13	43
14	-28
15	-27
16	-7
17	-15
18	-24
19	21
20	30
21	-19
22	8
	-18

Table 4.13

Attitudes for Handicapped Students

Item	Total
23	10
24	41
25	34
	85

There are some obvious conclusions. There is a considerable negative attitude toward due process for regular students. Nevertheless, teachers and handicapped students enjoy a better position. Also, if we remember from Table 4.4 (teachers due process knowledge area) and Table 4.5 (students due process knowledge area), especially the overall percents of the total correct scores in both tables that are, 56 percent and 54 percent, respectively, we get again a possible⁸³ positive correlation between attitude and knowledge; That is, the higher the positive attitude toward due process for teachers the higher the knowledge in due process for teachers is; the lower the positive attitude toward due process for students, the lower the knowledge in due process for students is.

4.8 Conclusion

There are some obvious conclusions from this descriptive research, first, principals need to improve their due process knowledge. For instance, approximately 78 percent of the principals got a score of 65 percent (or

⁸³This is mainly a descriptive research (Borg and Gall, 1983), we can not conclude that there is a positive correlation between attitude and knowledge in due process (Borg and Gall, 1983). One of the reasons is, the instrument is not designed to look at correlations between variables. It is designed to look at what happens with the variable, not to see their relationships.

less) of right answers in the second part⁸⁴ In addition to this, neither the teachers' due process area items, from this second part obtained an overall area total over the 60 percent.⁸⁵

Second, there is a need to improve the attitude toward due process, mainly for the regular students sub-area. This sub-area is the only one that came up with negative opinion results; that in comparison to other area positive results,⁸⁶ implies that there is a need to study it (i.e., the reasons for this negative attitude).

Third, approximately 53 percent of our sample haven't taken a legal educational course or workshop at least since 1983. Fourth, approximately 28 percent haven't taken a legal educational course or workshop since 1971 and fifth, 15 percent haven't ever taken a legal educational course or workshop!

Sixth, 89 percent of the highest scores have recently taken a legal educational course or workshop.

Seventh, exactly 100 percent agreed they would benefit from a due process handbook which includes proper

⁸⁴This part is related to due process basic principles knowledge (see Table 4.8 where thirty-one principals got thirteen points or less).

⁸⁵See Tables 4.4 and 4.5.

⁸⁶The results were not too positive as we can see on Table 4.10, a total of 547 from the 960.

procedures for dismissing a teacher or to suspend a student.

The next chapter will discuss the major implications of these results.

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CHAPTER 5

SUMMARY AND DISCUSSIONS

5.1 Introduction

This chapter briefly discusses the research: the problem, the methodology, the results and limitations. Also this last chapter identifies and interprets the research major findings of this study.

A brief history of the problem is reviewed with its major implications.

The methodology of the study, (included the defects and problems that were confronted in the sampling procedures, in the instrument and in the data collection and analysis), are discussed.

Nevertheless, the chapter's main task is to identify the major findings and its implications for future research.

5.2 The Problem

Due process for dismissing a teacher or to suspend or expel a student have changed dramatically during the last twenty years, (for the increasing influence in school policy of parents, teachers and students organizations and for the changes in the communities' standards). As a result, principals and other school administrators are challenged to become knowledgeable of these changes in due

process, in order to avoid major negative consequences (e.g., be defeated in courts, in costly trial proceedings).

The evidence shows that principals have lost considerable numbers of due process related legal cases (bringing a negative impact in the school budget and environment) basically, because they did not follow the basic elements of due process.

Thus, two major questions arise from this problem:

(1) Are school principals familiar with the latest changes of the basic elements of due process? or (2) Have they a positive attitude toward due process for students and teachers?

5.3 Methodology

To answer these major questions a research methodology was followed. As part of it, an instrument was designed (to answer the guiding questions that were derived from the above two questions) (see Appendix A). Two cover letters were designed and attached to this instrument. One of the cover letters, was the superintendent letter⁸⁷ and the other one the principal letter.⁸⁸

⁸⁷It was asking for the research permit (please refer to Figure 3.2).

⁸⁸It was describing the research, the instrument, and their purposes (please refer to Figure 3.3).

5.3.1 The Instrument

The instrument,⁸⁹ a survey questionnaire, has three parts addressed to get from our sample: their attitude and knowledge of due process, when they took a legal educational course or workshop and if they would consider a due process handbook helpful.⁹⁰

The first part (the attitudes' part) has twelve items related to students due process court statements then, thirteen court teachers due process statements items follow. These items are designed to be answered strongly agree, agree, undecided, disagree, strongly disagree. They are weighted +2, +1, 0, -1, -2⁹¹ according to their agreement with courts statements. It means the more the similarity with the court statements the higher the positive number and vice-versa, the less the similarity the higher the negative number.

The second part has twenty multiple choice questions related to: due process in general (Items 1 through 5) tenured and untenured teachers due process (Items 6 through 15) and students due process (Items 16 through 20). The

⁸⁹See Appendix.

⁹⁰For clarification, see Figure 3.1.

⁹¹This is the Likert Scale, with the addition of the "undecided" category (weighted zero). The reason why this category was added is, some principals have not developed a defined opinion about some due process statements.

objective is to measure principal due process knowledge in different areas.⁹²

5.3.2 The Sample

Thus, the instrument⁹³ was sent⁹⁴ to an urban school district in Massachusetts, February 20, 1990, and collected March 25, 1990, forty of the forty-nine principals in the district responded, that composed our sample school district. Approximately 82 percent of this large urban school district principals, and vice-principals responded.⁹⁵

5.3.3 Data Analysis

The main purposes of the research is to determine how familiar school principals and vice-principals are with the due process of school law. Then, the data analysis and statistical breakdown were organized according to this objective⁹⁶ In other words the author used the guiding

⁹²Basic principles of due process, since some "procedural due process" varies from a state to a state.

⁹³The instrument was revised by another large urban school district; then a revised instrument was sent to our sample.

⁹⁴By an insured postal mail to the research director of this school district.

⁹⁵It means, common principals with a strong legal educational background in educational laws and others without a single legal course or workshop ever taken. Though the author can not directly verify this information because of the anonymity of the research procedures, the research results verify the superintendent information. Therefore, we are dealing with a cluster sample of the state of Massachusetts principals (Borg and Gall, 1983).

⁹⁶Therefore, the anonymity of the participants to not affect the instrument validity.

questions to direct the appropriate numerical analysis (Jaccard and Becker, 1990).

Specifically, we computed the percent of correct⁹⁷ answers in each item, sub-parts, parts and then we did the appropriate comparison in order to answer the guiding questions. In addition, to get a stronger comparison, we obtained the mean and the standard deviation in some parts⁹⁸ and sub-parts.

For example, on Table 4.4, from procedural and substantive due process items results for teachers (it is from item number six through number fifteen) we got each item total correct responses percents (that is the total correct responses in each item divided by forty participating principals). In our next step, we added all correct responses on this part⁹⁹ and then divided it by the total of items¹⁰⁰ multiplied by the total of principals¹⁰¹ to get an idea of the percent of correct responses¹⁰² in this specific area.

⁹⁷From the total of principals, that is forty points in the second part and eighty points in the first part (because of having 40 principals times two--the maximum positive attitude).

⁹⁸There is no need of taking the standard deviation in some parts, (see for instance, Table 4.6 where we find only four items).

⁹⁹It is 223.

¹⁰⁰There are ten items from item number six through fifteen.

¹⁰¹The product is $10 \times 40 = 400$.

¹⁰²Thus, we get $223 / (10 \times 40) = 55.75\%$.

In addition, we computed the mean¹⁰³ (the total of correct responses divided by the forty principals) and got the standard deviation.¹⁰⁴

The same procedures were used with other responses as we can see on Table 4.5 (related to students due process). Thereafter the parts results were compared. As a result we answered our guiding questions and some possible correlations came up during the process of such analyses.

5.3.4 Major Findings and Their Implications

There is an obvious major finding. There is, in fact, a need for improving the principals' knowledge and attitude toward due process.

Although, the different areas reviewed got different results, no area indicates an acceptable percent of total correct responses. All respondents need to improve their knowledge of due process for teachers and students.

The above seriously implies that 82 percent of the school principals do not master the due process basic principles. The fact that 82% of the principals in a given district, especially a large urban school district where the student suspensions are practiced on a daily basis (Zirkel, 1987), and in the school system where the students

¹⁰³It is $223/40=5.6$, from ten items per principals (that is 56% of the total of the ten items).

¹⁰⁴It is the square root of $1390.1/9 = 12.42$, implying a considerable variation among the results.

develop part of their sense of justice and citizenship concepts and attitudes to our legal system, raises many concerns about the schools as positive social agencies.

Another question is, what procedures do principals follow, if any, in dismissing an incompetent teacher, when the school has a serious need for dismissing? The study indicates that they would not be able to exercise "due process" for dismissal. Mistakes cost money.¹⁰⁵

Other significant findings are related to the principals' attitudes toward due process. No part got a high positive score from the principals; furthermore, the part related to regular students got negative results!¹⁰⁶

Thus, there are some possible questions for further researches: Have the principals a negative attitude toward due process for students because they don't know the basic principles of due process? Or do principals reject the basic principles of due process because they have a negative attitude toward regular students? As we saw in Chapter 4, there seemed to be a positive correlation between both variables. It is the higher¹⁰⁷ the "due

¹⁰⁵Is this the reason why principals seem to be afraid in recommending the dismissal of an incompetent teacher?

¹⁰⁶Where .3% are American Indians, 7.8% are Black, 5.3% are Asian, 19.9% are Hispanic and 66.7% are white students.

¹⁰⁷Remember the higher among the low scores that we got.

process knowledge area's" score, the higher the principals "attitude area" scores?

These suggest that any intent to improve the principals' knowledge toward due process, has to deal with the principals biases. The intent has to sell due process to the principals; the principals have to see it as useful as practical.

Other important findings are related to the date they have taken a legal course or workshop, 50 percent of them have not taken a legal course or workshop since 1983¹⁰⁸ (seven years ago), and 28 percent have not taken a legal educational course or workshop since 1973 (seventeen years ago), and 15 percent have not taken any legal educational course ever!

These suggest that school districts should make more accessible¹⁰⁹ the opportunity for legal educational workshops, in-service trainings and legal literature, to their principals. Lawyers on retainers can earn them by conducting workshops to the school system that they work. These lawyers could write the due process handbooks for their school districts, and revise them (and the workshops) every two years. Teachers could get these handbooks as

¹⁰⁸This might be related to the principals' negative attitude toward due process for regular students.

¹⁰⁹Some principals, in other school districts, are concerned about the time consumption of this kind of workshop.

part of their staff development requirements. This may sound expensive but it is less expensive than losing in court. The accountability for a wrongful dismissal or suspension could be disastrous!

Also, in the particular case of the 15 percent of principals that have not taken a course of workshop, suggest that school departments should check how effectively school policies are implemented by principals that have not taken any legal or educational course ever! (Our results show that 89% of the highest part II scores have recently taken a legal educational course or workshop, and the lowest scores have not taken a legal educational course or workshop since 1972 or never).

In view of the findings it seems understandable that 100 percent of the principals agreed that a handbook would be helpful for them. Practically all of them seem to say: "we need to be updated in due process" to the school districts and the department of education.

5.3.5 Research Limitations and Suggestions for Future Research

We obtained important information throughout our study, the sample, and analyses. But, as happened with the one done by Boivin, our "anonymity" and the particular subject of this research bring some limitations or weaknesses to our study. These have to be taken into

consideration if further conclusions or researches are to be made.

Because of the anonymity of our questionnaire the 18 percent of non-respondents are impossible to identify, making impossible more accurate conclusions.

Because of the subject ("Due Process of Law" for dismissing a teacher or to suspend a student) some participants could have felt threatened by (1) "who is" the researcher and (2) "what use" will be done with the data. The author recommends that to diminish this threat to the participants and the school districts, a compromise not to publish the school district's name, and a serious warranty to the participants that their participation is absolutely anonymous and it will be assured.

For other researchers, the writer recommends they deal with several school districts at a time, while asking one for a research permit.¹¹⁰ This opens the opportunity for getting the permit to make the research (at least with one school district) and to get a larger number of participants.

Future researchers should avoid dealing with school districts where there are visible political struggles. The research could be seen negatively, leading to not obtaining

¹¹⁰This researcher had the experience of dealing with several school districts, some of them have not answered the initial request of the research permit.

the permit to make the research, or to reflect a negative participation from the participants.

According to the above, the researcher should exclude those school districts in which s/he has personal relationships. Because, the more you know about the school district, the easier it is for you to identify the participants.

If you have problems in getting the permit using this method, you can go through the method that Gayler and Imber used. That is, the examination of the pertinent cases in the local courts in the last ten years. Although this is a highly time consuming method it seems to be more reliable, because you are dealing with the results from cases in courts.

But it is best to get the information you want directly from the decision makers.

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APPENDIX

THE INSTRUMENT

QUESTIONNAIRE: Procedural and Substantive Due Process in
Teachers' Dismissals and Students'
Suspensions

PART I: There is not a correct or incorrect answer in
this part.

A. Teachers:

1. "Failure to recognize a teacher's constitutional rights, whether substantive or procedural, may render a termination void and entitle the teacher to reinstatement, back pay, damages, costs and attorney's fees" (Bender, 1988, pp 6-266).
 - a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
2. A teacher dismissal decision must be made by a balancing of the teacher's deprivation against the public interests at stake, including whether it is a liberty or property interest (Bender, 1988; Menacker, 1981; Zirkel and Gluckman, 1986).
 - a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
3. "The Supreme Court has held that regardless of the truth, falsity, or potential reputational impact or stigmatizing effect of a school board's reasons for termination of a teacher's employment, there is no deprivation of 'liberty' if the reasons for the dismissal are not publicly disclosed at the instigation of the employer" (Bender, 1988, p. 268).
 - a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree

To afford a teacher due process procedure at minimum, notice must include:

4. A written explanation of the reasons for the proposed discharge (Bender, 1988).
 - a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
5. A proper notice prior to the time of any final action is taken by the board, should contain a statement sufficient to allow the teacher to determine what criteria and standards the board will be considering when making its final decision (Bender, 1988; Henderson, 1985).
 - a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
6. "A dismissal hearing is a quasi judicial proceeding" (Bender, 1988, p. 286.3).
 - a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
7. To satisfy due process rights at hearings, the right to be represented by counsel must be meaningful and must comport with traditional notions of fundamental fairness; counsel must be afforded the opportunity to listen to testimony and cross-examine witnesses (Bender, 1988; Castetter, 1986).
 - a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree

8. Teachers can be compelled to answer questions about their job performance, but only if their answers will not be used against them in subsequent criminal proceedings (Bender, 1988).
- a) strongly agree
 - b) agree
 - c) disagree
 - d) disagree
 - e) strongly disagree
9. Courts have held that individuals need not to incriminate themselves at administrative hearings (Bender, 1988).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
10. The school board may not base its decision upon evidence that does not relate to the charges (Bender, 1988; John, 1983).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
11. "The school board may not base its decision upon evidence not brought forth at the hearing" (Bender, 1988, pp. 6-302).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree

12. Teachers charged with insubordination have, in some cases, asserted that their refusal to perform certain directions was based on constitutional rights. Teachers clearly may not be compelled to relinquish their constitutional rights (Bender, 1988).

- a) strongly agree
- b) agree
- c) undecided
- d) disagree
- e) strongly disagree

B. Students:

13. School discipline procedures for imposing sanctions against erring students are not so important as the instructional process is (Boivin, 1983).

- a) strongly agree
- b) agree
- c) undecided
- d) disagree
- e) strongly disagree

14. Administrators should have more discretion in dealing with disciplinary issues, because they are closer to the situation than the courts (Boivin, 1983).

- a) strongly agree
- b) agree
- c) undecided
- d) disagree
- e) strongly disagree

15. Recent court decisions dealing with student behavior have tended to undermine the authority of school officials (Boivin, 1983).

- a) strongly agree
- b) agree
- c) undecided
- d) disagree
- e) strongly disagree

16. Courts should not impose sanctions on regulations or school activities (Kzenevich, 1984; Zirkel and Reichner, 1987).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
17. Some student suspensions should not need any notice (Fox, 1988; Peterson, 1986).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
18. The school responsibility "to educate" is more important than a student's constitutional right (Kzenevich, 1984).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
19. School policies that are determined by the appraisal of a single school official violate the substantive due process (Fischer and Schimmel, 1982).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree
20. In disciplinary proceedings some type of hearing must be held for students before a suspension, no matter if it is a short suspension (Fischer and Schimmel, 1982).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree

21. As a result of some due process courts related decisions, school principals have lost their flexibility to deal with students' discipline.
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly agree
22. Court decisions in regard to students due process take away teachers' authority to discipline their students (Boivin, 1983).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly agree
23. Except for emergency situations, handicapped students should not be suspended more than ten days (Peterson, 1986).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly agree
24. If handicapped students pose an immediate threat to the safety of others, the school must have the option for obtaining judicial relief, without going through the time consuming administrative procedures of the Education of the Handicapped Act (Underwood, 1988).
- a) strongly agree
 - b) agree
 - c) undecided
 - d) disagree
 - e) strongly disagree

25. The U.S. Supreme Court should erase the line between discipline for handicap-related misconduct and discipline for misconduct that is not connected to the child's handicap (Underwood, 1988).

- a) strongly agree
- b) agree
- c) undecided
- d) disagree
- e) strongly disagree

PART II: In this part, please answer the questions based upon your best knowledge at this time.

1. Due Process of law right is derived from the
 - a) First and Second Amendments to the Constitution.
 - b) Fourth and Fifth Amendments to the Constitution.
 - c) Fifth and Fourteenth Amendments to the Constitution.
 - d) none of the above.
2. Due procedural process could be defined as:
 - a) a fair procedure that states and other arms of the government must provide before depriving anyone of "life, liberty or property".
 - b) a fair procedure that states and other arms of the government should provide before depriving anyone of "life, liberty or property".
 - c) a fair procedure that states and other arms of the government should provide before depriving anyone of "life or liberty" but not of property.
 - d) none of the above.
3. Substantive due process imposes sanction on school regulations that are (Menacker, 1981; Zirkel, 1988)
 - a) too specific, although they have a rational relationship to legitimate school goals.
 - b) vague, that have no rational relationship to legitimate school goals.
 - c) none of these.

4. School policy's handbook that says "extremes in hair styles will not be permitted" violates (Fischer and Schimmel, 1982)
- a) the substantive due process
 - b) the procedural due process.
 - c) both answers a and b.
 - d) none of the above.
5. Student corporal punishment and sexual abuse from their teachers could violate (Zirkel, 1988)
- a) the substantive due process.
 - b) the procedural due process.
 - c) both a and b.
 - d) none of the above.
6. Tenured and untenured teachers have the same procedural due process rights when (Henderson, 1985)
- a) the untenured teacher is dismissed during the year contract.
 - b) the contract of the untenured is not renewed in retaliation of having the teacher exercise a constitutional right.
 - c) both a and b.
 - d) none of the above.
7. Tenured and untenured teachers do not have the same procedural due process rights when the dismissal of the tenured teacher (Henderson, 1985)
- a) does not involve a constitutional right.
 - b) happens at the end of the school year contract.
 - c) all of the above.
 - d) none of these.

8. Courts have included as the procedural due process rights for teachers' dismissals the right to (Fischer and Schimmel, 1982; Menacker, 1981)
- a) a timely and well explained notice.
 - b) to a hearing, the opportunity to be represented, and to present evidence.
 - c) in addition to a and b to question witnesses and an impartial judge.
 - d) only a and b.
9. The tenured teachers notice must (Zirkel and Gluckman, 1986)
- a) explain the specific charges.
 - b) have a statement of nexus between the teacher's conduct and his teacher responsibilities, no matter if the facts do obviously infer a nexus.
 - c) both answers a and b.
 - d) none of the above.
10. The teacher dismissal notice must follow the requirements of
- a) the state tenure law.
 - b) the state statutory.
 - c) teachers union agreement.
 - d) both answer a and c.
 - e) answers a, b, and c.

11. If an untenured teacher proves that a board unconstitutionally failed to renew his contract at the end of the year, the board (Fischer and Schimmel, 1982; Henderson, 1985)
- a) will win if it proves by a preponderance of evidence that the same decision would have been reached in the absence of the protected conduct.
 - b) will lose because the board violated a constitutional right, no matter if there is a preponderance of evidence against the teacher.
 - c) none of these.
12. The evidence presented in a dismissal hearing must be (John, 1983; Rodriguez, 1986)
- a) relevant and preponderant.
 - b) objective or without bias.
 - c) does not necessarily have to be related to the school educational goals.
 - d) all of the above.
 - e) both answers a and b.
13. If the principal and/or supervisors evaluations are used as evidence against the teacher, the instrument must be (Bender, 1988; Remley and MacReynolds, 1988; Valente, 1985)
- a) reliable and valid.
 - b) non-discriminatory.
 - c) both a and b.
 - d) none of the above.

14. If the grounds for tenured teacher dismissal is incompetence, one that is always powerful evidence is the (Bender, 1985; Valente, 1985)
- a) parents' opinion.
 - b) students' opinion.
 - c) educational expertise opinion.
 - d) both a and b.
15. If the principal recommends the teacher's dismissal for incompetence he should present as evidence (Bender, 1988; Remley and MacReynolds, 1988; Valente, 1985)
- a) well documented facts, taken under normal and ordinary work conditions.
 - b) that a genuine and specific effort was made to help the teacher.
 - c) that sufficient time and opportunity were given the teacher to improve.
 - d) all of the above.
 - e) both answers b and c.
16. Students have procedural due process rights when they are suspended
- a) for three days or more.
 - b) for ten days or more.
 - c) for one day or more.
 - d) none of the above.

17. When the student is suspended for ten days or more the procedural due process requires that the student must be provided with (Castetter, 1986; Valente, 1985)
- a) a timely notice, a hearing, an opportunity to be represented, to present evidence, to question witnesses and an impartial judge.
 - b) only a timely notice, a hearing and an opportunity to be represented.
 - c) none of the above.
18. When the student is expelled from the school, in such a way that his reputation is involved, procedural due process requires that students must be afforded (Sacken, 1987)
- a) a timely notice, a hearing, an opportunity to be represented to present evidence, to question witnesses and an impartial judge.
 - b) only a timely notice, a hearing and the opportunity to be represented.
 - c) none of the above.
19. If the expulsion of a student happens in an emergency situation that involves the security of other students and teachers, the student (Peterson, 1986)
- a) does not have a procedural due process right.
 - b) has a procedural due process right as soon as practicable.
 - c) has a procedural due process right as soon as practicable, but only the notice and the hearing.
 - d) could be b or c.

20. Handicapped students have the same procedural due process rights as regular students if their suspension is (Underwood, 1988)
- a) for ten days or less.
 - b) the misconduct is not connected to the child's handicap, and he does not pose an immediate threat to the safety of others.
 - c) both a and b.
 - d) none of the above.

PART III: Two Statistical Questions

A. When did you last take a legal educational due process related course or workshop in Massachusetts.

_____ in 1984-1989

_____ in 1978-1983

_____ in 1972-1977

_____ before 1972

_____ none (I have not taken)

B. Do you think that a handbook that includes legal due process procedures would be helpful to have?

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